

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

September 26, 2014

A regular meeting of the Commission for Human Rights was held on Friday, August 29, 2014. Present at the meeting were Commissioners John B. Susa, Chair, Iraidia Williams and Rochelle Bates Lee. Absent were Commissioners Camille Vella-Wilkinson, Tolulope Kevin Olanoye, Esq., Angelyne E. Cooper, Esq. and Alberto Aponte Cardona, Esq. The meeting commenced at 10:00 a.m.

Commissioner Williams moved to approve the minutes of August 29, 2014. Commissioner Lee seconded and the motion carried unanimously.

Commissioner Williams moved to approve the minutes of September 8, 2014. Commissioner Lee seconded and the motion carried unanimously.

Status Report of Michael D. Évora, Executive Director

A written report was handed out. All new information is in bold print.

Case Production Report – Attached

Aged Case Report – No aged cases to report.

Outreach Report – Attached

STATUS REPORT – COMMISSIONERS

OUTREACH: No outreach reported at this time.

GENERAL STATUS: Commissioners discussed the proposed revisions on Commissioners responsibilities. A copy is attached. Commissioner Williams moved to approve the changes on Commissioner responsibilities and the motion carried unanimously.

Commissioner Meeting -2- September 26, 2014

STATUS REPORT – LEGAL COUNSEL: by Cynthia M. Hiatt

LITIGATION: Counsel and the Commissioners reviewed pending litigation in which the Commission has a role. Report attached.

LEGISLATION: Counsel and the Commissioners reviewed the final report on legislation enacted in the last General Assembly session relating to the Commission and civil rights.

Discussion on Proposed resolution relating to the marriage rights of incarcerated persons was tabled to the next meeting.

HEARING SCHEDULE/STATUS OF HEARING CASES: Commission Counsel discussed with the Commissioners the hearing schedule and status of hearing cases.

DECISIONS- ZABALA V. PROVIDENCE SCHOOL DEPARTMENT ET AL: No discussion at this time.

DECISIONS- RELIEF IN THE CASE OF YANGAMBI V. PROVIDENCE SCHOOL BOARD - No further discussion at this time.

The meeting adjourned at 10:30 a.m. The next regular meeting of the Commission is October 31, 2014 at 9:30 a.m.

Respectfully Submitted,

**Michael D. Évora
Executive Director**

**Notes taken by B. Ross
EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
26 September 2014**

I. BUDGET

S = State/General Revenue; F = Federal (EEOC/HUD); T = Total

FY 2014	FY 2015	FY 2015	FY 2015	FY 2016
(Rev.)	(Gov. Rec..)	(Enacted)	(Rev. Req)	(Req.)
S 1,146,066	1,193,083	1,193,083	1,206,185	1,231,273

F	317,367	287,096	287,096	332,950	319,355
T	1,463,433	1,480,179	1,480,179	1,539,135	1,550,628

On June 13, the House passed a budget which included funding for the Commission consistent with the Governor's recommendations for FY14 and FY15 (see above). The Senate passed the budget on June 16 and it was signed by the Governor on June 19.

The Commission's FY15 (Revised) and FY16 (Requested) budget requests were submitted to the Governor, House/Senate Fiscal Advisors and Budget Office officials on September 12. (Submission was due on September 18.) See above for details.

II. FEDERAL CONTRACTS

EEOC – For federal FY 2012 (beginning October 1, 2011), according to EEOC Project Director Marlene Toribio, we closed 237 co-filed cases.

Our contract with EEOC for FY 2012 was for 235 cases. For federal FY 2013 (beginning October 1, 2012), we closed 201 co-filed cases. Our contract with EEOC for FY13 was for 199 cases. For federal FY14 (beginning October 1, 2013), we have closed 197 co-filed cases. Our original contract for FY14 was for 244 cases; however, based on our assessment of case production, we requested a downward modification to 230 cases in early August. EEOC approved our request and revised our contract accordingly. We must close an additional 33 cases by September 30 to meet our contract.

HUD – For FY12, according to HUD Project Director Angela Lovegrove, we took in 40 new housing charges, 37 of which were co-filed with HUD, and we processed 45 housing charges, 43 of which were co-filed with HUD. For FY13, we took in 51 new housing charges, all of which were co-filed with HUD, and we processed 50 cases, 47 of which were co-filed with HUD. For FY14, we took in 49 new housing charges, 47 of which are co-filed with HUD, and we processed 51 cases, 50 of which were co-filed with HUD (three of these processed cases were post-PC conciliations). For FY15 (beginning July 1, 2014), we have taken in 50 new housing charges, 31 of which are eligible to be co-filed with HUD. (17 were not eligible for co-filing and two were deferred to HUD for investigation due to internal conflicts.) Within this same time period, we have processed nine cases, eight of which were co-filed with HUD.

UPDATE ON HUD PARTNERSHIP GRANTS – The first grant, for approximately \$56,000, is for a targeted outreach (including development of training/education materials) to the LGBT community and victims of domestic violence. On March 17, former Investigator Susan Pracht began a nine-month position as Community Liaison Specialist overseeing the implementation of the LGBT/Domestic Violence grant. The LGBT portion of the project is near completion; work on the domestic violence portion of the project has begun.

The second grant, for \$2,650.00, was used to plan and conduct a seminar on mortgage discrimination and predatory lending on April 7

at the Hyatt Regency Hotel in Newport; the event was attended by 32 individuals from RI and MA, including several representatives from HUD.

III. PERSONNEL

No new information.

IV. OUTREACH – Refer to attached report.

V. GENERAL STATUS

• Meetings with staff members – I continue to meet monthly with individual investigative staff members to monitor case production.

• Case Closures – Refer to attached report.

We ended FY 2012 slightly behind the prior fiscal year's case processing rate. In FY 2011, we processed 422 cases; in FY 2012, we processed 411 cases (approx. 3.5% decrease). For FY13, we processed 389 cases (approx. 5% decrease from FY 12). For FY14 (beginning July 1, 2013), we processed 376 cases (decrease of approx. 3% from FY13). For FY15 (beginning July 1, 2014), we have processed 54 cases (compare to 63 cases in this same time period in FY14).

●Aged Cases – There are no aged cases in the Commission’s inventory for federal FY 2014 (beginning October 1, 2013).

●Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 1998. We ended FY11 with 323 cases in inventory, FY12 with 255 cases, and FY13 with 265 cases. As of 9/25/14, we had a total of 338 cases in inventory; 64 of these cases were pending assignment.

●HUD Proposal: In response to a recent HUD Notice of Funding Availability (NOFA), the Commission submitted a proposal for HUD funding for a special one-year project to conduct fair housing education and outreach to immigrant (foreign-born) individuals in Rhode Island.

●Performance Management Initiative – The Governor’s Performance Management Team has noted that the Commission is one of the only state agencies that consistently complies with the Performance Management Directive in a complete/timely manner.

Respectfully submitted,

Michael D. Évora

Executive Director

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: September 26, 2014

Recent developments are in bold.

Andrade v. Hahn, Smith/Keen LP and Westlo Management, LLC

The Commission will intervene.

Benitez v. Pyramid Case Company, Reynar Vazquez, Mario Meletz, Blanca Cruz and the R.I. Commission for Human Rights

In December 2012, the Commission issued a Decision that found that the Complainant did not prove that the Respondents discriminated against her with respect to ancestral origin discrimination or retaliation. The Complainant's attorney appealed. The Commission filed the administrative record in February 2013. The parties stipulated to dates for filing memoranda and the Complainant's attorney requested more time. The Complainant's attorney plans to request another new stipulation on dates for filing, so the due dates for the memoranda are currently unknown.

BHDDH (MHRH) v. RICHR and the Estate of Dr. John Satti

BHDDH appealed the Commission decision that BHDDH retaliated against Dr. Satti and discriminated against him on the basis of his age. BHDDH filed its Brief on August 7, 2008. On October 21, 2008, the Commission filed the administrative record. On January 14, 2009,

the Commission filed its brief. The Complainant's brief was filed on April 19, 2012. On June 20, 2012, it appeared that the appeal was assigned to Judge Daniel Procaccini. On May 9, 2014, Legal Counsel wrote a letter to Judge Procaccini, stating that the Commission was checking to ensure that the Judge had received notice of the assignment to him, as an assignment of an administrative appeal on another Commission case had not been transmitted to the Judge. The parties had previously been informed by the Clerk's Office that the case had been assigned to Judge Procaccini. Judge Procaccini let us know that the case was not assigned to him. He tracked down the assignment; it was assigned to Judge Matos. Because of the confusion surrounding the assignment, on May 21, 2014, the Commission sent Judge Matos a disc with copies of the briefs and an offer of additional materials, if needed.

City of Providence v. RI Commission for Human Rights and Matthieu Yangambi

On November 13, 2013, the City of Providence appealed the Commission's decision in Yangambi v. Providence School Board. On November 19, 2013, the City filed an amended complaint to add the Complainant as a party. On February 14, 2014, the City of Providence filed a Motion to Stay in Superior Court. The Commission filed the administrative record on February 27, 2014. On March 6, 2014, Associate Justice Matos ordered that the Motion to Stay the hearing on damages was denied. He stated that he would not interfere with an adjudicative agency's hearing on the issues. He granted the

respondent additional time to complete training of supervisory personnel. The supervisory personnel have been trained. Certification of training and a copy of the syllabus were sent to the Commission.

Mancini v. City of Providence

This is a case of disability discrimination brought in federal court in Rhode Island. Judge Smith certified a question to the Rhode Island Supreme Court asking whether individuals can be liable under R.I.G.L. Section 28-5-6(7) which provides that it is an unlawful employment practice:

For any person, whether or not an employer, employment agency, labor organization, or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful employment practice, or to obstruct or prevent any person from complying with the provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful employment practice.

The case was docketed with the Rhode Island Supreme Court on March 10, 2014. The Court set dates for submitting 12A statements for an initial conference with one Supreme Court justice. The Commission submitted a Motion to File an Amicus 12A Statement and a short Amicus 12A Statement to inform the court of the number of

Commission cases that this question affects (50% of those filed in FY 2013) and to ask that the Court invite members of the bar to submit briefs on the issue. On June 4, 2014, the Rhode Island Supreme Court granted the Commission's Motion to File an Amicus 12A Statement. On July 23, 2014, the Plaintiff filed her 12A Statement.

Medeiros v. R & D Roofing and Roger Pratas

The Commission found for the Complainant in this case. He filed a Petition to Enforce the Commission Order. Respondent Pratas appeared and Judge Carnes continued the matter until 11-13-12 to allow Mr. Pratas to obtain legal counsel. Mr. Pratas has told the Complainant's attorney that he has no assets.

RICHR (Grimes) v. Graul, et al.

A complaint alleging familial discrimination was filed in Kent County Superior Court. The case was removed to federal court by the defendants. The Court denied the respondents' Motion for Summary Judgment without oral argument and granted the Commission's Motion to Amend the Complaint. Defendants' discovery responses were submitted and the Commission's discovery responses were submitted.

RICHR (Lovegrove) v. Escolastico

A Rhode Island judgment was obtained and sent to a Florida lawyer for collection. Counsel is waiting for Ms. Lovegrove to forward funds to the Florida counsel to begin Supplementary Proceedings against

Mr. Escolastico. No further collection efforts to be done at this time.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, et al. No further collection efforts to be done at this time.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act was filed against defendants. An offer of \$2500 was made to the plaintiff to settle all of the claims. No further collection efforts to be done at this time.

RICHR (Morin) v. Teofilo Silva, et al.

A complaint for enforcement was filed on 3-24-05. Service of the complaint will be made once respondent can be located. No further collection efforts to be done at this time.

RICHR (Oliveira) v. Furniture Warehouse, et al.

A Petition to Enforce was filed in December 2012. Service has been made on most of the defendants. Plaintiff retrieved her file from her attorney and it will be reviewed for an attempt at collection.

RICHR (Pellerano) v. Kuznetsov

A complaint was filed to enforce the May, 2012 Decision of the Commission. The petition for enforcement was granted. No further collection efforts to be done at this time. Lien placed on the residential property of the defendant.

RICHR v. McElroy

This case was filed in the Providence County Superior Court to enforce a negotiated settlement. No further collection efforts to be done at this time.

RICHR v. POP, et al.

Counsel for the individual defendant has been representing that the ad would be placed in the newspaper. Petition for enforcement has been filed in court.

RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport

The case is resolved. The Commission will annually monitor City training. Training was completed for 2014.

T.G.I. Fridays (Carlson Restaurants) v. Selvidio and Évora

Payment of a settlement was made to the complainant. The respondent has represented that it has complied with the training and posting parts of the Decision and will be sending the Commission confirmation on the training. Fridays has not provided evidence of training.